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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/761,935	01/17/2001	David Raistrick	1766/39027 Case 1A-CIP	5555

7590 12/23/2003

Trexler, Bushnell, Giangiorgi,
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EXAMINER

LE, THIEN MINH

ART UNIT	PAPER NUMBER
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2876

DATE MAILED: 12/23/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.		Applicant(s)	
	09/761,935		RAISTRICK ET AL.	
	Examiner		Art Unit	
	Thien M. Le		2876	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-84 is/are pending in the application.
- 4a) Of the above claim(s) 1-5 and 57-84 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 21-37 is/are allowed.
- 6) ☒ Claim(s) 6-10, 14, 18, 38-47 and 54 is/are rejected.
- 7) ☒ Claim(s) 12, 13, 15-17, 19, 20, 48-53, 55 and 56 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 January 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

Applicant's response to the Election/Restrictions dated 8/1/2003 has been entered. Accordingly, claims 1-5 and 57-84 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected Groups I, II, IV, V and VI. Election was made **without** traverse was filed on 9/18/2003.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 6-10, 14, 18, 38-47, and 54, are rejected under 35 U.S.C. 102(b) as being anticipated by Sullivan et al. (herein after referred as Sullivan – 5,992,742).

Regarding claim 6, Sullivan discloses a machine readable code on a label of a pill or imprinted directly thereon. The code may be used to track the identity of the pill for purposes of avoiding mix-up or trademark violations. The code has patterns whose resolution is too small for the unaided eye to discern.

According to Sullivan, the code is preferably a mosaic code such as a 2 dimension, high density micro bar code, such as PDF-417 developed by Symbol Technologies, Inc. This type of code is essentially impossible to distinguish with the

naked eye. Only an appropriate scanner (also available from Symbol Technologies, Inc.) is capable of deciphering the intricate patterns of each code.

The code may be read by a scanner for the purpose of identifying the source of the pill manufacture and the distributor responsible for its dissemination. Such information may be useful in an effort to prevent product tampering, unauthorized product repackaging and entry of gray goods.

Regarding claim 7, Sullivan discloses that the code may be read by a scanner for the purpose of identifying the source of the pill manufacture and the distributor responsible for its dissemination. Such information may be useful in an effort to prevent product tampering, unauthorized product repackaging and entry of gray goods.

The code may be read by a scanner for purposes of identifying the contents of the pill. This is useful for verifying information such as the medication contained within the pill and its potency or efficacy expiration date. This is done by correlating the code pattern read with information stored in a data base pertaining to the code pattern. Such a data base may be from a microprocessor-based personal computer system, a dedicated centralized computer system or from on-line services or even an INTRANET computer network service or an INTERNET computer network service or other microprocessor based systems.

Regarding claims 8 and 14, Sullivan discloses that the scanner may read the bar code on the pill container, in the same manner as it is capable of reading micro bar code on a pill (as described above), and store the scanned information into a data base, yet avoid

the need to manual record keeping on pill efficacy. Under such circumstances, the pills would not require micro bar coding because the record keeping could be done by reading the bar code on the container.

Regarding claims 9-10, Sullivan disclose the method of displaying information regarding the ill effects that may occur if the combination of medication is taken on the display of a hand-held terminal which has limited displaying space. Thus, the means and the steps of scrolling over the retrieved information is considered inherent.

Regarding claim 11, Sullivan discloses the method and steps of retrieving and comparing the scanned information with the corresponding information from a remotely located database; and thus would embrace all limitations set forth in this claim.

Regarding claim 18, see the discussions above.

Regarding claims 38-47, and 54, see the discussions above. With regarding the label on the container and/or bottle, see the discussions in the background of invention of Sullivan. Specifically, Sullivan acknowledges that it is conventional to label pill bottle and/or container with bar code labels. For this reason and the discussions set forth above, the limitations of claims 38-47 are embraced by the teachings set forth by Sullivan.

Allowable Subject Matter

Claims 21-37 are allowed.

Claims 12-13, 15-16, 17, 19, 20, 48-53, 55, and 56, are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: The prior art includes the teaching of the method of labeling pills, pill's bottle with a 2D bar code and the system and method for reading, retrieving and accessing medical information pertaining to the label. However, none of the cited reference disclose the use of a wireless device such a mobile telephone, a wireless organizer for reading and retrieving information in the claimed manners.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thien M. Le whose telephone number is (703) 305-3500. The examiner can normally be reached on Monday - Friday from 7:30am - 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on (703) 305-3503. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

A handwritten signature in black ink, appearing to read 'Le, Thien Minh', with a stylized, cursive script.

Le, Thien Minh
Primary Examiner
Art Unit 2876
December 15, 2003